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NEWS RELEASE

Committee on Energy and Commerce

Rep. John D. Dingell, Chairman

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The U.S. Department of Energy (DOE) has informed Energy Solutions and USEC that it has rejected their proposal for a \$9.5 billion sole source contract for decommissioning DOE's Portsmouth, OH, and Paducah, KY uranium enrichment plants. DOE informed Reps. John D. Dingell (D-MI), Chairman of the Committee on Energy and Commerce, and Bart Stupak (D-MI), Chairman of the Subcommittee on Oversight and Investigations, of its decision in a letter dated September 20, 2007.

"I commend the DOE General Counsel and his legal staff for scrubbing and ultimately rejecting a proposal which is so plainly at odds with the public interest," said Dingell. "I am also pleased that USEC realizes that it should be securing its financing needs from the private sector, and not through indirect Government subsidies funneled through a sole source contract given to a potential acquirer."

On August 1, 2007, Dingell and Stupak wrote to Energy Secretary Samuel Bodman to state their opposition to the joint Energy Solutions-USEC proposal and ask for a status report on DOE's evaluation of it. This proposal also called for Energy Solutions to acquire USEC and invest in USEC's American Centrifuge Project. The chairmen questioned whether the modification of the Government's lease with USEC as a means to enter into a sole source contract would violate the Competition in Contracting Act (CICA) and whether this arrangement constituted an indirect Government subsidy to Energy Solutions to finance the acquisition of USEC's stock. The chairmen urged DOE to use full and open competition for decommissioning work.

"After 10 months of review, DOE agreed with our concerns that this sole source contracting proposal was not in the taxpayer's best interest," said Stupak. "However, it is imperative, as a next step, that Secretary Bodman protect taxpayer interests by soliciting bids from a wide array of qualified firms using full and open competition while ensuring that qualified workers at these sites are provided a seamless transition to decommissioning work."

"On or about August 8, Assistant Secretary Dennis Spurgeon informed Energy Solutions that the Department is not interested in pursuing the proposed transaction, and that subsequently he also informed USEC as well," according to the September 20, 2007 DOE letter to the Committee. No written communications were sent to USEC or Energy Solutions formalizing this decision, according to DOE. In November 2006, Spurgeon urged full consideration of this proposed transaction, according to internal DOE communications, due to concerns about a "USEC train wreck that could have serious side effects for nuclear energy in the U.S."

Although DOE is not pursuing this particular transaction, DOE has not indicated whether it is committed to full and open competition. DOE states that it "is in the process of formulating an acquisition strategy for the D&D [decontamination and decommissioning] of the Portsmouth and Paducah plant sites."

Between November 2006 and August 2007, a team of 12 DOE attorneys and five senior program officials reviewed the legal, fiscal, and policy issues related to the USEC-Energy Solutions proposal, including a proposed lease modification, which according to DOE, was submitted by USEC in February 2007. The team concluded that it was unlikely that all of the important legal issues could be effectively addressed and resolved. Even if the legal issues could be addressed, it would likely require senior DOE officials and in some cases the Secretary of Energy himself "to make certain very controversial determinations and certain decisions to accept substantial legal and programmatic risk."

Amongst 30 key issues of concern, DOE lawyers questioned whether it was appropriate to award a sole source contract given the narrow legal exceptions provided in the Competition in Contracting Act; whether the Advance Payment Act's strict requirements could be satisfied because DOE had to make large advance payments for several years before any decontamination and decommissioning milestones had to be met; whether the proposed transaction would violate the Anti-Deficiency Act; whether this contract would result in a sound business transaction netting the \$3 billion in savings that Energy Solution projected in its discussions with DOE and Congress; and, in the end, whether there are a host of "unstated, unknown, and perhaps unknowable obligations and costs in connection with the work that likely further undermine the assurance any benefit to taxpayers."

Subsequent to this DOE notification, USEC has sought financing through a public stock and debt offering.

[View September 20, 2007 DOE letter](#)

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Prepared by the Committee on Energy and Commerce

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